

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Mississippi Department of Human Services)	File No. SLD-239430
Jackson, Mississippi)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45 ✓
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: January 14, 2003

Released: January 15, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Mississippi Department of Human Services, Division of Youth Services (MDHS), Jackson, Mississippi.¹ MDHS seeks review of a decision issued by the Schools and Libraries Division (SLD) ~~of~~ the Universal Service Administrative Company, denying some of its Funding Year 2001 funding requests.² For the reasons set forth below, we deny the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In

¹ Letter from Willie Blackmon, Mississippi Department of Human Services, Division of Youth Services, to Federal Communications Commission, filed February 27, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c). In prior years, Funding Year 2001 was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus the funding period that began on July 1, 2001 and ended on June 30, 2002, is now called Funding Year 2001. The funding period that began on July 1, 2002 and ends on June 30, 2003 is now known as Funding Year 2002, and so on.

³ 47 C.F.R. §§ 54.502, 54.503.

order to receive discounts on eligible services, the Commission's rules require that the applicant submit to SLD a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into binding agreements for eligible services, it files an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible.⁶

3. In its Funding Year 2001, MDHS made four requests for internal connections, Funding Request Numbers (FRNs) 568884, 569018, 569083, and 569140, each citing an FCC Form 470 in support that did not post internal connections services for bidding.⁷ On July 23, 2001, SLD telephoned MDHS's contact person to identify if there was an FCC Form 470 for the internal connections funding requests.⁸ The contact person stated that he did not post for internal connections and that he "understood" that MDHS would not get funding for internal connections that year.⁹ On August 7, 2001, SLD issued a Funding Commitment Decision Letter that, among other things, denied the four internal connections requests.¹⁰

4. MDHS appealed to SLD, asserting that it had typed in the wrong FCC Form 470 number, and that it had entered other information incorrectly.¹¹ It asserted that the correct FCC Form 470 number was "204490000291326[sic]," that the allowable contract date should have been June 19, 2000, that the contract award date should have been June 20, 2000, and that the contract number was "land-server EPL."¹² SLD denied the appeal, stating:

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3)

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.504(c).

⁷ FCC Form 471, Mississippi Department of Human Services, Division of Youth Services, filed January 16, 2001 (MDHS Form 471); FCC Form 470, Mississippi Department of Human Services, Division of Youth Services, filed December 13, 2000 (MDHS Form 470).

⁸ Universal Service Administrative Company, Schools and Libraries Division, Application Activity Report, Mississippi Department of Human Services Division of Youth Services, April 1, 2002 (entry on July 23, 2001) (July 23, 2001 Contact).

⁹ *Id.*

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Mississippi Department of Human Services Division of Youth Services, dated August 7, 2001 (Funding Commitment Decision Letter).

¹¹ Letter from Willie Blackmon, Mississippi Department of Human Services, Division of Youth Services, to Schools and Libraries Division, Universal Service Administrative Company, filed August 27, 2001 (SLD Appeal).

¹² *Id.* at 1

During the initial review process, you were contacted requesting a 470# that posted for internal connections. The phone call was made on 7/20/01. You responded to the reviewer saying that you had not posted for internal connections and understood that you would not receive funding for these FRNs.¹³

MDHS then filed the pending Request for Review.

5. In its Request for Review, MDHS asserts again that Funding Year 2000 FCC Form 470 No. 204490000291326 (this time, correctly enumerated) supports its request.¹⁴ MDHS asserts that this FCC Form 470 was posted by the Mississippi Department of Information Technology Services, which, MDHS asserts, was the bidding process for a state master contract on which MDHS is now relying for its internal connections requests.¹⁵ MDHS also asserts that internal connections were not discussed on July 20, 2001.¹⁶

6. Under SLD's appeal review procedures, specifically those regarding instances of incorrectly resolved ambiguities, SLD will grant appeals when the applicant has cited the wrong FCC Form 470 in an FRN but did have an FCC Form 470 that supports the FRN and cites that correct FCC Form 470 in its appeal to SLD.¹⁷ However, we find that SLD properly did not apply this practice to MDHS for two reasons. First, this practice does not apply if SLD, after determining that an FRN cited an invalid FCC Form 470, contacted the applicant during application review to provide the applicant an opportunity to demonstrate that there was a correct FCC Form 470.¹⁸ In this case, the record demonstrates that SLD contacted MDHS during application review. Specifically, SLD asked MDHS for an FCC Form 470 that posted the internal connections requests. The record reflects that MDHS's contact person responded that he did not post the internal connections requests and that MDHS would therefore not get funding for internal connections that year." Under its procedures, SLD correctly held MDHS to this response on appeal.

¹³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Willie Blackmon, Mississippi Department of Human Services Division of Youth Services, dated November 27, 2001 (Administrator's Decision on Appeal) at 1

¹⁴ Request for Review at 2

¹⁵ *Id.* at 1-2

¹⁶ *Id.* at 1

¹⁷ See *Request for Review by Reg 6 & 8 SW/CTRL/W Svc Co-op, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-199902, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 15898, para. 6 (Com. Car. Bur. 2001).

¹⁸ See SLD website, <<http://www.sl.universalservice.org/reference/AppealsSLDGuidelines.asp>> (Appeal Guidelines) ("If that contact does not occur, however, and funding is denied based on an incorrect assumption, the SLD will grant an appeal when the appellant points out the incorrect assumption and provides documentation about the issue that is consistent with information originally provided but also successfully resolves the ambiguity in the original file.") (emphasis added).

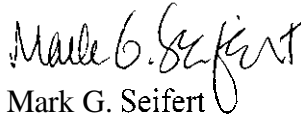
¹⁹ July 23, 2001 Contact.

7. We note that SLD, in the Administrator's Decision on Appeal, erroneously described this communication as occurring on July 20, 2001 instead of July 23, 2001.²⁰ However, the error in the date does not change the correctness of SLD's decision.

8. Even ignoring the communication on July 23, 2001, we find that the request to change an FCC Form 470 number was properly denied for a second reason. MDHS conceded in its SLD Appeal that the FCC Form 470 on which it seeks to rely is inconsistent with the allowable contract dates, contract award dates, and contract numbers specified in its four internal connections FRNs.²¹ To remedy this problem, MDHS requested that SLD correct all of this information to reflect the new FCC Form 470.²² However, applicants may not submit new information on appeal that is inconsistent with information in the file used during review.²³ Thus, MDHS may not correct the allowable contract date, contract award date, and contract numbers in its FRNs. Because the new FCC Form 470 was inconsistent with that information in its FRNs, and because the old FCC Form 470 did not support the FRNs, we conclude that SLD properly denied funding.

9. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Mississippi Department of Human Services, Division of Youth Services. Jackson, Mississippi on February 27, 2002 **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

²⁰ Administrator's Decision on Appeal at 1

²¹ SLD Appeal at 1

²² *Id.*

²³ Appeal Guidelines: *Request for Review by Colonial Beach School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-176456, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 11866, para. 8 (Wireline Comp. Bur. 2002). We note that, when an applicant provides a new FCC Form 470 number to support its request on appeal, it is not submitting "new evidence" because the FCC Form 470 was already in the possession of SLD.